

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-1406

United States of America,

Appellee,

v.

Eduardo Rodriguez-Rodriguez, also
known as Eddie Randy Rodriguez,

Appellant.

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Appeal from the United States
District Court for the
Northern District of Iowa.

[UNPUBLISHED]

Submitted: October 4, 2001
Filed: October 10, 2001

Before BYE, RICHARD S. ARNOLD, and BEAM, Circuit Judges.

PER CURIAM.

Eduardo Rodriguez-Rodriguez pleaded guilty to illegally reentering the United States after deportation, in violation of 8 U.S.C. § 1326. The district court¹ sentenced Rodriguez-Rodriguez to 96 months imprisonment and 3 years supervised release. On appeal, his attorney has filed a brief and moved to withdraw under Anders v. California, 386 U.S. 738 (1967).

¹The Honorable Mark W. Bennett, Chief Judge, United States District Court for the Northern District of Iowa.

Counsel argues that the district court should have granted a downward departure; however, counsel did not move for one below, and we conclude that the district court did not plainly err in declining to grant a departure sua sponte. See United States v. Montanye, 996 F.2d 190, 192 (8th Cir. 1993) (en banc).

Having found no nonfrivolous issues for appeal upon our independent review pursuant to Penon v. Ohio, 488 U.S. 75 (1988), we affirm the judgment of the district court, and we grant counsel's motion to withdraw. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.